In the High Court of Uttaranchal at Nainital.

Criminal Revision No. 474/2001
(Old No. 1536/1993)

Satya Prakash S/o Ram Kishore R/o
Sultanpur Patti Mohalla Tanda Banjara,
P.S. Bajpur District Nainital… . Revisionist.

Vs.

1- State of U.P.
2- Additional Sessions Judge III Nainital
3- Hari Negi alias Hari Singh
4- Digvijai Singh S/o Ram Kumar
5- Rishipal Singh S/o Mawasi Singh
6- Sudhanshu Ojha S/o Gazadhar Ojha
7- Hemant Negi S/o Khushal …..Respondents.

Hon'ble Irshad Hussain, J.

None appear on behalf of the revisionist despite service. Heard Sri G.S. Sandhu learned A.G.A. and perused the record.

This revision under section 397/ 401 of the Code of Criminal Procedure was preferred against the judgment dated 24-6-1993 in sessions trial no. 247/1992 whereby the accused were acquitted of the charges under sections 147, 148, 302 I.P.C. read with section 149 I.P.C. The judgment of acquittal was challenged by the complainant.

Having gone through the record with the help of the learned A.G.A. I find that out of the eight prosecution witnesses, three namely Devendra Kumar, Prem Singh and Girish Chandra, P.W.1, P.W.2 and P.W.3 were the witnesses of the fact. All of them turned hostile and did not support the prosecution version. There was no other direct evidence to connect the accused or any of them with the commission of the crime. The circumstances were also considered by

the learned Sessions Judge but no compelling circumstance was there to imply that the accused were in any way instrumental in the commission of the crime with which they were charged. In fact there was no legal evidence to record a finding of guilt of any of the accused and therefore the learned Sessions Judge was fully justified to come to the conclusion that the charges against the accused were not proved beyond doubt. The appreciation of the evidence was made in proper perspective.

In view of above there being no perversity in the appraisal of the evidence by the learned Sessions Judge, the revision lack merit and is dismissed. Consign.

(Irshad Hussain, J.)

Dated: 07-06-2004

ISB